

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7688 of 1988

For Approval and Signature:

Hon'ble MR.JUSTICE N.N.MATHUR

=====

1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?
1 to 5 No

GURPAULKAUR B SANDHU

Versus

BARODA MUNICIPAL CORPN

Appearance:

MR YN OZA for Petitioner

MR GN DESAI for Respondent No. 1

Ms. Harsha Devani, AGP for Respondent No. 2, 3

CORAM : MR.JUSTICE N.N.MATHUR

Date of decision: 07/08/96

ORAL JUDGEMENT

The grievance voiced by the petitioner in this Special Civil Application is that her husband was carrying out repairing work of tractors and other vehicles on a piece of land from which the respondent-Corporation intends to dispossess her. She has also stated that after the death of her husband, her

elder son is carrying on the repairing work in the garage established by her late husband. They were carrying on business on the said land for the last 17 years (as on the date of filing of the petition i.e. in the year 1988) It is submitted that the possession is not on the public place or public road. It is further stated that the garage is situated on the land belonging to a private Trust namely; Ranchhodji Temple Trust, Vadodara. The said Trust, in collusion with respondent No.1, finalised the T.P. Scheme with a view to deprive the petitioner or her legitimate right of protection under the Bombay Rent Act. On the other hand, Mr P G Desai, learned Advocate submits that the garage is on the public road, and therefore, in view of the provisions of section 231 of the BPMC Act, the discretion is vested with the Commissioner to waive the notice for dispossession. Since there is a dispute as to whether the garage is on the public road or not, it would be appropriate if the Commissioner of the respondent-Corporation takes a decision after hearing the petitioner.

2. In view of the aforesaid, ends of justice would be met, if direction is given to the respondent-Corporation that if a representation is made by the petitioner, the same shall be considered in its right perspective.

3. In view of the above, this Special Civil Application is disposed of with a direction that on submission of a representation by the petitioner within a period of one month, the respondent-Corporation shall dispose of the same within a period of two months from the date of receipt of the representation. Till the representation is decided, the interim relief granted by this Court shall continue.

Rule made absolute to the aforesaid extent with no order as to costs.

...